

Eligibility of Projects on Federal and State Land

ISSUE:

At issue is whether or not State Department of Ecology, Water Quality Program funding programs can be permitted to provide financial assistance directly or indirectly to state or federal agencies for projects on state and federal lands. Some conservation districts are conducting (on existing projects) and proposing new projects involving these activities in applications received during the FY 05 Funding Cycle. The beneficiaries of this work may appear to be the State of Washington and federal agencies. These entities are provided revenues through their respective Legislative and Congressional capital and operational budgeting processes to carry out their primary missions and meet their legal responsibilities under state and federal water quality laws.

DECISION:

The Water Quality Program Management Team (PMT) considered the issue. Based on clear direction from the Legislature that limited state money be directed to eligible public bodies and the people and jurisdictions they represent, PMT decided that Best Management Practices on state and federal land could not be provided Water Quality Program financial assistance.*

Chapter 70.146 RCW, *Water Pollution Control Financial Act*, and Chapter 173-95A WAC, *Uses and Limitations of Centennial Clean Water Funds*, do not identify federal agencies among the entities or groups that are defined as “public bodies.”

According to RCW 70.146.020 – Definitions... (6), "Public body" means the state of Washington or any agency, county, city or town, conservation district, other political subdivision, municipal corporation, quasi-municipal corporation, and those Indian tribes now or hereafter recognized as such by the federal government.

The Legislature has the prerogative to appropriate operational and capital funds through the legislative budget process to State of Washington agencies under the RCW. Ecology substantially limited state agencies by WAC 173-95A-060 (4), (e.g., wastewater treatment plants at state institutions) receiving financial assistance from Ecology after thorough review and recommendations by stakeholders, the Financial Assistance Council (FAC) and PMT. Likewise, the U.S. Forest Service and other federal agencies are provided funds through Congressional capital and operational budgeting processes to carry out their primary missions and meet their legal responsibilities under state and federal water quality laws.

Therefore, activities such as riparian revegetation, fencing, culvert repair/replacement, abandoned road repair, etc. proposed on land under state and federal jurisdiction are ineligible. However, in recognition of the complexity of watersheds and the benefits of cooperative efforts, Ecology may provide financial assistance to eligible recipients to participate with other state and federal agencies in comprehensive watershed planning and large-scale monitoring programs (that extend substantially beyond federal and state lands).

* These decisions were made by the Water Quality Program Management Team, and will therefore be incorporated into funding program guidance.